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## **An Act To Implement the Recommendations of the Blue Ribbon Commission To Study Long- term Home-based and Community-based Care**

**Emergency preamble.** Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** citizens of the State who are elderly or who are adults with physical disabilities are in need of services, as evidenced by the waiting lists in November 2008 containing 870 persons for homemaker services and 375 persons for home-based care services; and

**Whereas,** the Federal Government has discontinued funding for the Aging and Disability Resource Centers that have been providing information to the elderly and adults with disabilities and their families; and

**Whereas,** the agencies and programs that provide the needed services lack the resources to serve the persons waiting for services and require immediate appropriations of funding to meet those needs; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

### **Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 22 MRSA §7301, sub-§2,** as enacted by PL 1981, c. 511, §1, is amended to read:

**2. Policy.** The Legislature declares that it is the policy of this State, with regard to in-home and community support services:

A. To increase the availability of in-home and community support services long-term care services that are consumer-driven, optimize individual choice and autonomy and maximize physical health, mental health, functional well-being and independence for adults with long-term care needs through high-quality services and supports in settings that reflect the needs and choices of consumers and that are delivered in the most flexible, innovative and cost-effective manner;

B. That the priority recipients of in-home and community support services, pursuant to this subtitle, ~~shall~~must be the elderly and physically disabled adults who are at the greatest risk of being, or who already have been, placed inappropriately in an institutional setting; ~~and~~

C. That a variety of agencies, facilities and individuals ~~shall~~must be encouraged to provide in-home and community support services and to increase the percentages of adults with long-term care needs receiving in-home and community support services;

D. To promote and encourage public and private partnerships among a variety of agencies, facilities and individuals;

E. To support the roles of family caregivers and a qualified workforce in the effort to streamline and facilitate access to high-quality services in the least restrictive and most integrated settings; and

F. To establish the most efficient, innovative and cost-effective system for delivering a broad array of long-term care services.

**Sec. 2. 22 MRSA §7302, sub-§5**, as enacted by PL 1981, c. 511, §1, is amended to read:

**5. In-home and community support services.** "In-home and community support services" means health and social services and other assistance required to enable adults with long-term care needs to remain in their places of residence. These services include, but are not limited to, medical and diagnostic services; professional nursing; physical, occupational and speech therapy; dietary and nutrition services; home health aide services; personal care assistance services; companion and attendant services; handyman, chore and homemaker services; respite care; hospice care; counseling services; transportation; small rent subsidies; various devices ~~which~~that lessen the effects of disabilities; and other appropriate and necessary social services.

**Sec. 3. Planning for unified long-term care budget for services and supports for the elderly and adults with physical disabilities.** The Department of Health and Human Services shall undertake a planning process for the adoption of a unified budget for long-term care services and supports for the elderly and adults with physical disabilities that is complementary to the State's vision for a consumer-centered approach to long-term care. The Commissioner of Health and Human Services, the Commissioner of Administrative and Financial Services and the Office of Fiscal and Program Review shall work together to prepare a revised chart of accounts that concentrates all long-term care services and supports accounts for the elderly and adults with physical disabilities in the office that provides services to the elderly and adults with physical disabilities, including program and administrative costs in the office that provides services to the elderly and adults with physical disabilities and excluding accounts in the department's office of MaineCare services, and accounts related to mental health, mental retardation and developmental disabilities. By January 1, 2010, the Commissioner of Health and Human Services and the Commissioner of Administrative and Financial Services shall submit a report to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and health and human services matters. The report must contain a plan for a unified budget to be implemented by July 1, 2010.

**Sec. 4. Reduction of waiting lists.** The Department of Health and Human Services shall adopt as a priority reduction of waiting lists through the provision of services for home-based and community-based care and homemaker services for the elderly and adults with disabilities during fiscal year 2008-09 and elimination of waiting lists through the provision of services during the fiscal years 2009-10 and 2010-11.

**Sec. 5. Assistive technologies.** The Department of Health and Human Services shall work with the Department of Labor to explore uses of and develop funding sources for assistive technologies to help accomplish the State's vision of long-term services and supports for the elderly and adults with physical

disabilities. By January 1, 2010, the Department of Health and Human Services shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters on the results of the work on assistive technologies.

**Sec. 6. Alternative funding sources.** The Department of Health and Human Services shall explore alternative non-MaineCare sources of funding for service packages provided to residents in the 7 tax-credit-assisted assisted living facilities that currently use MaineCare funding. The alternative funding must be used in the event MaineCare funding is no longer available to ensure continuation of service packages. By January 1, 2010 the department shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters on the work on exploring alternative funding sources for service packages.

**Sec. 7. Direct care worker training, reimbursement and benefits.** The Department of Health and Human Services shall work with interested parties to develop a comprehensive and systematic approach to training, reimbursement and benefits for direct care workers in home-based and community-based care, residential facilities and nursing facilities and by December 1, 2009 shall report to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and health and human services matters.

**Sec. 8. Reversal of spending trend.** The Department of Health and Human Services shall undertake efforts to reverse the spending trend in long-term care to increase the number of people served and funds spent in home-based and community-based care as compared to the spending on residential care and nursing facility care and shall report annually through 2015 on its progress by February 1st beginning in 2010 to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and health and human services matters.

**Sec. 9. Improved discharge planning process.** The Department of Health and Human Services shall undertake an effort in the assessment process for eligibility for long-term care services under the MaineCare program to improve the discharge planning process as it pertains to hospitals and residential care facilities, including improving the provision of information to the consumer about facility-based and home-based and community-based options, improving consumer choice in the discharge process, increasing consumer counseling for those choosing self-directed care and education on the availability of hospice services. The department shall report to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and health and human services matters on work done with regard to this effort by February 1, 2010 and February 1, 2011.

**Sec. 10. Aging and Disability Resource Centers.** The Department of Health and Human Services shall work with the 5 area agencies on aging to provide services through Aging and Disability Resource Centers on a statewide basis. The department shall provide funding as appropriated in this Act. As a condition of receiving the funding, the area agencies on aging shall work with hospitals, nursing facilities and residential care facilities to improve the discharge planning process, including improving the provision of information to the consumer about facility-based and home-based and community-based options, improving consumer choice in the discharge process, increasing consumer counseling for those choosing self-directed care and education on the availability of hospice services. The department shall

report to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and health and human services matters on work done regarding the expenditures and the operations of the Aging and Disability Resource Centers by February 1, 2010 and February 1, 2011.

**Sec. 11. Appropriations and allocations.** The following appropriations and allocations are made.

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF**

**Long-term Care Services**

Initiative: Provides funding for Aging and Disability Resource Centers in the 5 area agencies on aging to provide information and referral services for the elderly and adults with physical disabilities and their families.

<b>GENERAL FUND</b>	<b>2009-10</b>	<b>2010-11</b>
All Other	\$300,000	\$300,000
<b>GENERAL FUND TOTAL</b>	<b>\$300,000</b>	<b>\$300,000</b>

**Sec. 12. Appropriations and allocations.** The following appropriations and allocations are made.

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF**

**Long-term Care Services**

Initiative: Provides funding for the Priority Social Services Program for reimbursement of the costs of volunteers for the delivery of meals in the homes of consumers of long-term care services and medical rides.

<b>GENERAL FUND</b>	<b>2009-10</b>	<b>2010-11</b>
All Other	\$500,000	\$500,000
<b>GENERAL FUND TOTAL</b>	<b>\$500,000</b>	<b>\$500,000</b>

**Long-term Care Services**

Initiative: Provides funding for the family caregiver initiative that provides assistance to families of the elderly and adults with physical disabilities to enable the elderly and adults with disabilities to remain in their homes.

<b>GENERAL FUND</b>	<b>2009-10</b>	<b>2010-11</b>
All Other	\$200,000	\$200,000

SP0142, LD 400, item 1, 124th Maine State Legislature  
 An Act To Implement the Recommendations of the Blue Ribbon  
 Commission To Study Long-term Home-based and Community-based Care

GENERAL FUND TOTAL	\$200,000	\$200,000
<b>HEALTH AND HUMAN SERVICES, DEPARTMENT OF DEPARTMENT TOTALS GENERAL FUND</b>	<b>2009-10 \$700,000</b>	<b>2010-11 \$700,000</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$700,000</b>	<b>\$700,000</b>

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.

### SUMMARY

This bill contains legislation suggested by the Blue Ribbon Commission to Study Long-term Home-based and Community-based Care.

It amends existing law governing the legislative findings and policy for home-based and community-based long-term care services for the elderly and adults with physical disabilities. It adds statements of findings for in-home and community support services and long-term care services.

It adds hospice care to the definition of "in-home and community support services."

It directs the Department of Health and Human Services to undertake a planning process for the adoption of a unified budget for long-term care services and supports for the elderly and adults with physical disabilities. It directs the Commissioner of Health and Human Services, the Commissioner of Administrative and Financial Services and the Office of Fiscal and Program Review to work together to prepare a revised chart of accounts. The commissioners are required to report by January 1, 2010 to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and health and human services matters. The report must contain a plan for a unified budget to be implemented by July 1, 2010.

It directs the Department of Health and Human Services to adopt as a priority reduction of the waiting lists for home-based and community-based care and homemaker services for the elderly and adults with disabilities during fiscal year 2008-09 and elimination of the waiting lists during the fiscal years 2009-10 and 2010-11.

It directs the Department of Health and Human Services to work with the Department of Labor to explore uses of and develop funding sources for assistive technologies. It requires the Department of Health and Human Services to report by January 1, 2010 to the joint standing committee of the Legislature having jurisdiction over health and human services matters.

It directs the Department of Health and Human Services to explore alternative non-MaineCare sources of funding for service packages provided to residents in the 7 tax-credit-assisted assisted living

facilities that currently use MaineCare funding. The alternative funding must be used in the event MaineCare funding is no longer available to ensure continuation of service packages. The department is required to report by January 1, 2010 to the joint standing committee of the Legislature having jurisdiction over health and human services matters.

It directs the Department of Health and Human Services to work with interested parties to develop a comprehensive and systematic approach to training, reimbursement and benefits for direct care workers in home-based and community-based care, residential facilities and nursing facilities and to report by December 1, 2009 to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and health and human services matters.

It directs the Department of Health and Human Services to undertake efforts to reverse the spending trend in long-term care to increase the number of people served and funds spent in home-based and community-based care as compared to the spending on residential care and nursing facility care and to report annually by February 1 beginning in 2010 to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and health and human services matters.

It directs the Department of Health and Human Services to undertake an effort in the assessment process for eligibility for long-term care services under the MaineCare program to improve the discharge planning process as it pertains to hospitals and residential care facilities, including improving the provision of information to the consumer about facility-based and home-based and community-based options, improving consumer choice in the discharge process, increasing consumer counseling for those choosing self-directed care and education on the availability of hospice services, and to report to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and health and human services matters by February 1, 2010 and February 1, 2011.

It directs the Department of Health and Human Services to work with the 5 area agencies on aging to provide services through Aging and Disability Resource Centers on a statewide basis, provides \$300,000 per year for this purpose and conditions the funding on the area agencies on aging working with hospitals, nursing facilities and residential care facilities to improve the long-term care discharge planning process. It directs the department to report to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and health and human services matters on work done with regard to this initiative by February 1, 2010 and February 1, 2011.

It provides funding for long-term care services for the elderly and adults with physical disabilities in the amount of \$500,000 per year for the Priority Social Services Program and \$200,000 per year for the family caregiver initiative.